

## Senate Bill No. 376

### CHAPTER 411

An act to amend Section 2401 of, and to add and repeal Section 2401.1 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 16, 2003. Filed  
with Secretary of State September 17, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 376, Chesbro. Healing arts.

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions.

This bill would establish until January 1, 2011, a pilot project to allow a hospital owned and operated by a health care district, as defined, to employ a physician and surgeon, if the hospital does not interfere with, control, or otherwise direct the professional judgment of the physician and surgeon. The pilot project would authorize the direct employment of a total of 20 physicians and surgeons by qualified district hospitals, as defined. The bill would specify that each qualified district hospital could employ up to 2 physicians and surgeons, subject to specified requirements. The bill would require the board to report to the Legislature not later than October 8, 2008, on the effectiveness of the pilot project.

*The people of the State of California do enact as follows:*

SECTION 1. Section 2401 of the Business and Professions Code is amended to read:

2401. (a) Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the Division of Licensing or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or

otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Alcohol and Drug Programs, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a hospital owned and operated by a health care district pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code may employ a licensee pursuant to Section 2401.1, and may charge for professional services rendered by the licensee, if the physician and surgeon in whose name the charges are made approves the charges. However, the hospital shall not interfere with, control, or otherwise direct the physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

SEC. 2. Section 2401.1 is added to the Business and Professions Code, to read:

2401.1. (a) The Legislature finds and declares as follows:

(1) Due to the large number of uninsured and underinsured Californians, a number of California communities are having great difficulty recruiting and retaining physicians and surgeons.

(2) In order to recruit physicians and surgeons to provide medically necessary services in rural and medically underserved communities, many district hospitals have no viable alternative but to directly employ physicians and surgeons in order to provide economic security adequate for a physician and surgeon to relocate and reside in their communities.

(3) The Legislature intends that a district hospital meeting the conditions set forth in this section be able to employ physicians and surgeons directly, and to charge for their professional services.

(4) The Legislature reaffirms that Section 2400 provides an increasingly important protection for patients and physicians and surgeons from inappropriate intrusions into the practice of medicine, and further intends that a district hospital not interfere with, control, or otherwise direct a physician and surgeon's professional judgment.

(b) A pilot project to provide for the direct employment of a total of 20 physicians and surgeons by qualified district hospitals is hereby established in order to improve the recruitment and retention of physicians and surgeons in rural and other medically underserved areas.



(c) For purposes of this section, a qualified district hospital means a hospital that meets all of the following requirements:

(1) Is a district hospital organized and governed pursuant to the Local Health Care District Law (Division 23 (commencing with Section 32000) of the Health and Safety Code).

(2) Provides a percentage of care to Medicare, Medi-Cal, and uninsured patients that exceeds 50 percent of patient days.

(3) Is located in a county with a total population of less than 750,000.

(4) Has net losses from operations in fiscal year 2000-01, as reported to the Office of Statewide Health Planning and Development.

(d) In addition to the requirements of subdivision (c), and in addition to other applicable laws, a qualified district hospital may directly employ a licensee pursuant to subdivision (b) if all of the following conditions are satisfied:

(1) The total number of physicians and surgeons employed by all qualified district hospitals under this section does not exceed 20.

(2) The medical staff and the elected trustees of the qualified district hospital concur by an affirmative vote of each body that the physician and surgeon's employment is in the best interest of the communities served by the hospital.

(3) The licensee enters into or renews a written employment contract with the qualified district hospital prior to December 31, 2006, for a term not in excess of four years. The contract shall provide for mandatory dispute resolution under the auspices of the board for disputes directly relating to the licensee's clinical practice.

(4) The total number of licensees employed by the qualified district hospital does not exceed two at any time.

(5) The qualified district hospital notifies the board in writing that the hospital plans to enter into a written contract with the licensee, and the board has confirmed that the licensee's employment is within the maximum number permitted by this section. The board shall provide written confirmation to the hospital within five working days of receipt of the written notification to the board.

(e) The board shall report to the Legislature not later than October 1, 2008, on the evaluation of the effectiveness of the pilot project in improving access to health care in rural and medically underserved areas and the project's impact on consumer protection as it relates to intrusions into the practice of medicine.

(f) Nothing in this section shall exempt the district hospital from any reporting requirements or affect the board's authority to take action against a physician and surgeon's license.



(g) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.

